IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. NO. 5299 OF 2005

Date of Decision: April 30, 2007

Charan Dass …Petitioner

Versus

The State of Punjab and others …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr.R.K. Arora, Advocate,
for the petitioner.

Mr. M.P. Goswami, DAG, Punjab.

JUDGMENT

M. M. KUMAR, J.

The action of the respondents in reducing the pay of the petitioner with retrospective effect i.e. from 1.1.1996, after his retirement and withholding an amount of Rs. 1,18,000/- approximately out of his retiral benefits are subject matter of challenge in this petition filed under Article 226 of the Constitution. The aforementioned steps are stated to have been taken on the basis of an audit objection.

Mr. R.K. Arora, learned counsel for the petitioner has

argued that no recovery could be effected in view of settled principle of laws as laid down by Hon'ble the Supreme Court in case of **Sahib Ram v. State of Haryana, 1995 (1) SCT 668**. According to the learned counsel, there is no element of fraud or misrepresentation on the part of the petitioner and in these circumstances no recovery can be fastened on him.

However, learned State counsel has argued that once it is accepted that payment of excess amount has been made to the petitioner, then the natural consequence of recovery must follow. According to him, such a course would be available by permitting the respondents to recover the amount by way of easy instalments.

After hearing the learned counsel for the parties, we are of the considered view that in Sahib Ram' case (supra), Hon'ble the Supreme Court has categorically laid down that no recovery could be effected from an employee in the absence of misrepresentation or fraud on his part. Accordingly, the writ petition is allowed. The recovery sought to be effected from the petitioner is quashed and it is directed that the re-fixation shall be maintained.

Writ petition stands disposed of.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

April 30, 2007
Pkapoor